

Notice of Allowability	Application No.	Applicant(s)	
	10/762,202	WEAVER	
	Examiner	Art Unit	
	William P. Watkins III	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 29 June 2006.
2. ☒ The allowed claim(s) is/are 1 and 3-37.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

On the page of the specification filed 21 June 2004, that is numbered as page "1", after the title "Flexible Carrier" and before the section heading "Field of Invention", the section heading and sentence

--Cross Reference to Related Applications

This application claims the benefit of U.S. Provisional Application No. 60/442,313, filed on 24 January 2003.--
has been inserted.

This clearly insures that the "Cross Reference to Related Applications" section will be printed on the face of the patent and clarifies the priority claim. The examiner notes that the "Cross Reference to Related Applications" section was included by applicant on a cover sheet before the first numbered page of the specification. This cover sheet is shown with the rest of the pages of the specification filed 21 June 2004 in the USPTO

electronic file wrapper. A separate transmittal letter was also filed 21 June 2004.

A request to correct the filing receipt was filed by applicant on 03 August 2004. Applicant requested that the parent application 10/705,023 be added to the filing receipt, along with the existing reference to provisional application 60/442,313. This request was denied in an office letter mailed 07 September 2004, which stated that the claim for priority must be made on the first page of the specification or on an Application Data Sheet, and that the claim to a previous nonprovisional application must specify the relationship to the instant application such as "continuation of" or "divisional of". Applicant filed no further paper regarding this denial.

As the reference to the provisional application was acknowledged on the filing receipt and the application was timely published as U.S. 2004/0192850 A1 on 30 September 2004, eighteen months after the date of the provisional application, even though the provisional application was not mentioned on the actual first page of the specification or on an ADS, it is proper to clarify the claim for priority to the provisional application by placing it on the first numbered page of the specification, in order to insure that is properly printed on

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the face of the patent, without a petition under 37 CFR

1.78(a)(3) (MPEP 201.11 (III)(d)).

Applicant is not entitled to claim priority to the 10/705,023 application, as noted in the office letter mailed 07 September 2004, as it was not listed on the first numbered page of the specification or in an ADS, and does not include the relationship of the application to the instant application, and no petition under 37 CFR 1.78(a)(3) has been filed or granted. The above examiner's amendment clarifies that the claim to the benefit of 10/705,023 has been denied and insures that the correct information will be printed on the face of the patent.

2. The examiner notes that there is a typographical error in the rejection given in section 2 of the detailed portion of the office action mailed 24 March 2006. The correct serial number is 10/705,023, not 10/762,202 as given in that section. The '023 application was expressly abandoned and the rejection is therefore withdrawn.

3. The following is an examiner's statement of reasons for allowance: The rejections under 103 given in sections 4 and 5 of the detailed portion of the office action mailed 24 March 2006

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are withdrawn in view of applicant's arguments filed 29 June 2005. The examiner agrees that there is no expectation of success that the advantages of the use of VLDPE with LLDPE taught in German et al. would occur when the blend of German et al. is used in combination with the high pressure low density polyethylene of Hirschberger as German et al. does not teach other polymers in the blend and Hirschberger requires a higher density than that of the VLDPE. The claimed compositions in combination with the other limitations of independent claims 1, 15, and 26 define over the cited prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**WILLIAM P. WATKINS III
PRIMARY EXAMINER**

WW/ww

October 11, 2006